

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6929

BILL NUMBER: HB 1340

NOTE PREPARED: Jan 29, 2015

BILL AMENDED:

SUBJECT: Civil Proceeding Advance Payment Transactions.

FIRST AUTHOR: Rep. Lehman

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- (1) Defines a "civil proceeding advance payment transaction", or "CPAP transaction", as a nonrecourse transaction in which a person (CPAP provider) provides to a consumer claimant in a civil proceeding a funded amount, the repayment of which is:
 - (A) required only if the consumer claimant prevails in the civil proceeding; and
 - (B) sourced from the proceeds of the civil proceeding.
- (2) Requires a CPAP provider to register with the Department of Financial Institutions (DFI).
- (3) Sets forth requirements, including disclosure requirements, for a contract (CPAP contract) entered into by a CPAP provider and a consumer claimant.
- (4) Sets forth certain requirements and prohibitions with respect to CPAP transactions, including specifications for the CPAP contract amount.
- (5) Permits the DFI to take certain actions to: (a) determine compliance with; and (b) pursue remedies for violations of; these provisions.
- (6) Permits the DFI to adopt rules to implement these provisions.
- (7) Specifies that the Uniform Consumer Credit Code does not apply to a CPAP transaction.

Effective Date: Upon passage.

Explanation of State Expenditures: This bill will increase the workload of the DFI to provide regulation of CPAP providers in the state. Increases in workload are expected to be offset with the collection of (1) application and renewal fees and (2) forfeiture of surety bonds and civil penalties when CPAP providers are found to have violated regulations in the bill.

Explanation of State Revenues: *Summary:* This bill could increase revenue from the following sources:

- (1) Application and renewal fees paid by CPAP providers,
- (2) Forfeited surety bonds from CPAP providers who violate regulations contained in the bill,
- (3) Civil penalties paid by CPAP providers who violate regulations contained in the bill, and
- (4) Civil court fees.

Revenue from (1), (2), and (3) would be paid to the Financial Institutions Fund, which supports the operations of the DFI. Revenue from (4) would be deposited in several funds, with the General Fund receiving a majority. Total increases in revenue are indeterminable.

Additional Information: The bill allows the DFI to assess application and renewal fees that will cover expenses of providing oversight for CPAP providers. The amount of revenue collected from these fees will depend on fee amounts established by DFI administrators.

For CPAP providers who are investigated for potential violations of regulations contained in the bill, the provider could be subject to (1) reimburse any DFI costs of investigating allegations, (2) court fees, (3) a maximum \$5,000 penalty per violation, and (4) an additional maximum \$10,000 penalty on top of any court-ordered penalties.

The maximum surety bond CPAP providers are required to deposit with the DFI is \$50,000. Depending on the circumstances, a single provider could be subject to total civil penalties that exceed the surety bond maintained with the DFI. For example, a CPAP that commits nine discovered violations would be subject to \$5,000 per violation (\$45,000 total) plus the additional maximum \$10,000 penalty, for a total of \$55,000. In these cases, the DFI could receive additional revenue from CPAP providers found in violation of the bill's provisions.

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the State User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If

the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- A service fee (\$10) is collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected: DFI.

Local Agencies Affected: Courts.

Information Sources:

Fiscal Analyst: Bill Brumbach, 232-9559.